

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	BEFORE THE TENNESSEE
)	BOARD OF MEDICAL EXAMINERS
CARL A. LINDBLAD)	
RESPONDENT)	DOCKET NO: 17.18-156363A
)	
CHATTANOOGA, TN)	
TENNESSEE LICENSE NO.: 13035)	

AGREED ORDER

Comes now the Division of Health Related Boards of the Tennessee Department of Health ("State"), by and through the Office of General Counsel, and Respondent, Carl A. Lindblad, M.D., ("Respondent"), and respectfully moves the Tennessee Board of Medical Examiners ("Board") for approval of this Agreed Order effecting Respondent's medical license in the State of Tennessee.

The Board is responsible for the regulation and supervision of medical professionals licensed to practice in the State of Tennessee. *See Tennessee Medical Practice Act, Tennessee Code Annotated Section (hereinafter "TENN. CODE ANN. §") 63-6-101, et seq.* It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect the public health, safety and welfare in every practicable way, including disciplining individuals who violate the provisions of TENN. CODE ANN. § 63-6-101, *et seq.* or the Rules and Regulations promulgated by the Board and recorded in the Official Compilation Rules and Regulations of the State of Tennessee ("TENN. COMP. R. & REGS.")

Respondent, by their signature to this Agreed Order, waives the right to a contested case hearing and any and all rights to judicial review in this matter. Respondent agrees that presentation to and consideration of this Agreed Order by the Board for ratification and all matters divulged during

that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

STIPULATIONS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted license number 13035 by the Board on November 5, 1980, which currently has an expiration date of January 31, 2019. Respondent's license is currently on probation.
2. Respondent has been previously disciplined by this Board beginning in July of 2014. The discipline stemmed from Respondent ordering medical supplies at various times from 1999 through 2010 for the purpose of using and/or dispensing in the course of providing medical treatment to friends and neighbors from his home. The medical supplies ordered included, but were not limited to, antibiotics, alprazolam, hydrocodone and medical instruments. Respondent did not create or maintain any medical records for the individuals he treated with the supplies he ordered. As a result of Respondent's actions, his license was reprimanded and he was prohibited from dispensing controlled substances directly to patients. Respondent was also required to complete two continuing medical education courses and pay the costs of prosecuting the case.
3. Respondent was subsequently disciplined in September of 2016 because he failed to comply with the terms of the July 2014 Board Order, namely he failed to complete one of the required continuing medical education courses and he failed to pay the costs of

prosecuting the case. The 2016 Board Order placed Respondent's license on probation for a period one (1) year. Respondent was required to petition the Board for an Order of Compliance for the probation to be lifted. The remaining terms of the Order required Respondent to pay civil penalties for being non-compliant with his previous board order, complete the previously required continuing medical education course and pay the costs of prosecuting the case. Respondent's license remains on probation.

4. On or about January 2015 through at least July 2015, Respondent was employed at Choice MD, a walk-in family practice clinic in Cleveland Tennessee, where he served as the assistant medical director.
5. Respondent asserts that staff at Choice MD interviewed patients via telephone conference or office visit using a one-page intake form. Staff would then provide prescription forms to Respondent for his review and signature.
6. Respondent would go to Choice MD about once a week to sign the prescription forms for compounded prescription crèmes which were then sent to a compounding pharmacy to be filled and shipped to the patients. Respondent asserts that the owners of Choice MD informed him that these compounded prescriptions were for real patients in the military using the TRICARE insurance program.
7. It was later discovered that Respondent authorized prescriptions for straw TRICARE beneficiaries recruited by a network of marketers run by the owners of Choice MD.
8. No one employed at Choice MD, including Respondent, conducted a legitimate medical evaluation of these TRICARE beneficiaries before prescribing the compounded medications. Medical records regarding these TRICARE beneficiaries were also not created or maintained.

9. During the time that Respondent was employed with Choice MD, he wrote over a thousand compounded medication prescriptions.
10. The owners of Choice MD profited by way of kickback payments from a compounding pharmacy located in Utah. These payments were in exchange for the owners recruiting TRICARE beneficiaries to receive compounded medications from the pharmacy and employing doctors to write the prescriptions for these beneficiaries that could be filled by the compounding pharmacy.
11. By concealing that illegal payments were being made to doctors, beneficiaries, marketers, and other individuals involved in the submission of claims for reimbursement for compounded drugs and misrepresenting that Respondent and other prescribers had actually examined and treated the straw beneficiaries prior to prescribing the compounded drugs, the conspirators fraudulently overbilled TRICARE.
12. Respondent asserts that he was not paid per prescription, and that he did not receive any compensation other than his monthly stipend. Respondent also asserts that he did not know the amounts that the pharmacies were billing the government for these compounded crèmes.
13. While employed at Choice MD, Respondent also served as a co-supervisor for Candace Craven, a nurse practitioner. Respondent did not sign a notice and formulary for Candace Craven and did not create or maintain written practice protocols to be followed.
14. On or about April 11, 2018, Respondent was charged with one felony count of conspiracy to commit healthcare fraud in the Southern District of California. On or about April 11, 2018, Respondent signed a plea agreement, pleading guilty to conspiracy to commit healthcare fraud and swearing under penalty of perjury that the "Factual Basis" contained in the plea agreement were true. Respondent has not been sentenced.

15. Respondent has surrendered for cause his DEA Certificate of Registration in Tennessee.

GROUNDS FOR DISCIPLINE

The preceding Stipulations of Fact are sufficient to establish that Respondent has violated the following statutes or rules which are part of the Act, TENN. CODE ANN. § 63-6-101, *et seq.* and TENN. COMP. R & REGS., 0880-02-.01 *et. seq.*, and 0880-6-.01 *et. seq.* for which disciplinary action before and by the Board is authorized:

16. Respondent's actions as articulated in paragraphs four (4) through fourteen (14) of the Stipulations of Fact, *supra*, constitute a violation of Tennessee law, pursuant to TENN. CODE ANN. § 63-6-214(b)(1):

Unprofessional, dishonorable or unethical conduct;

17. Respondent's actions as articulated in paragraphs four (4) through twelve (12) and paragraph fourteen (14) of the Stipulations of Fact, *supra*, constitute a violation of Tennessee law, pursuant to TENN. CODE ANN. § 63-6-214(b)(4):

Gross health care liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the course of medical practice;

18. Respondent's actions as articulated in paragraphs four (4) through twelve (12) and paragraph fourteen (14) of the Stipulations of Fact, *supra*, constitute a violation of Tennessee law, pursuant to TENN. CODE ANN. § 63-6-214(b)(12):

Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, or in amounts and/or for durations not medically necessary, advisable or justified for a diagnosed condition;

19. Respondent's actions as articulated in paragraphs four (4) through twelve (12) and paragraph fourteen (14) of the Stipulations of Fact, *supra*, constitute a violation of Tennessee law, pursuant to TENN. CODE ANN. § 63-6-214(b)(14):

Dispensing, prescribing or otherwise distributing any controlled substance, controlled substance analogue or other drug to any person in violation of any law of the state or of the United States;

20. Respondent's actions as articulated in paragraphs four (4) through twelve (12) and paragraph fourteen (14) of the Stipulations of Fact, *supra*, constitute a violation of Tennessee law, pursuant to TENN. CODE ANN. § 63-6-214(b)(16):

Giving or receiving, or aiding or abetting the giving or receiving, of rebates, either directly or indirectly;

21. Respondent's actions as articulated in paragraphs four (4) through twelve (12) and paragraph fourteen (14) of the Stipulations of Fact, *supra*, constitute a violation of Tennessee law, pursuant to TENN. COMP. R. & REGS., Rule 0880-02-.14(7):

(a) Except as provided in subparagraph (b), it shall be a prima facie violation of T.C.A. § 63-6-214 (b) (1), (4), and (12) for a physician to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:

1. Performed an appropriate history and physical examination; and
2. Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good medical care; and
3. Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensed drug, with the patient; and
4. Insured availability of the physician or coverage for the patient for appropriate follow-up care.

(c) It shall be a prima facie violation of T.C.A. § 63-6-214 (b) (1), (4), and (12) for a physician, or his /her licensed supervisee pursuant to appropriate protocols or medical orders, to prescribe or dispense any drug to any individual for whom the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has not complied with the provisions of this rule based solely on answers to a set of questions regardless of whether the prescription is issued directly to the person or electronically over the internet or telephone lines.

22. Respondent's actions as articulated in paragraph eight (8) of the Stipulations of Fact, *supra*, constitute a violation of Tennessee law, pursuant to TENN. COMP. R. & REGS., Rule 0880-02-.15(4)(a):

Duty to Create and Maintain Medical Records - As a component of the standard of care and of minimal competency a physician must cause to be created and cause to be maintained a medical record for every patient for whom he or she, and/or any of his or her professionally licensed supervisees, performs services or provides professional consultation.

23. Respondent's actions/omissions as articulated in paragraph thirteen (13) of the Stipulations of Fact, *supra*, constitute violations of TENN. COMP. R. & REGS. 0880-6-.02(5)

Protocols are required and:

- (a) Shall be jointly developed and approved by the supervising physician and nurse practitioner;
- (b) Shall outline and cover the applicable standard of care;
- (c) Shall be reviewed and updated biennially;
- (d) Shall be maintained at the practice site;
- (e) Shall account for all protocol drugs by appropriate formulary;
- (f) Shall be specific to the population seen;
- (g) Shall be dated and signed; and,
- (h) Copies of protocols and formularies shall be maintained at the practice site and shall be made available upon request for inspection by the respective boards.

24. Respondent's actions/omissions as articulated in paragraph thirteen (13) of the Stipulations of Fact, *supra*, constitute violations of TENN. COMP. R. & REGS. 0880-6-.02(6)

The supervising physician shall be responsible for ensuring compliance with the applicable standard of care under (5). Additionally, the supervising physician shall develop clinical guidelines in collaboration with the certified nurse practitioner to include a method for documenting consultation and referral.

IV. POLICY STATEMENT

The Tennessee Board of Medical Examiners takes the following action in order to protect the health, safety and welfare of people in the State of Tennessee and ensure that the public confidence in the integrity of the medical profession is preserved.

ORDER

NOW THEREFORE, Respondent agrees to the following:

25. The **probationary status** placed on the Tennessee medical license of **Carl A. Lindblad**, license number 13035 pursuant to the September 2016 Order, is hereby modified and such license is now **SUSPENDED** for a period of at least three (3) months effective the date of entry of this Agreed Order.
26. During the period of suspension, Respondent shall:
 1. Successfully complete the ProBE Professional/Problem Based Ethics Program, (“ProBE”) conducted by the Center for Personalized Education for Physicians, (“CPEP”) or equivalent program preapproved by the Board’s medical consultant.
 - a. Respondent shall sign any and all releases necessary to allow CPEP or equivalent program to communicate with the Board directly. Respondent shall not revoke such releases prior to successful completion and final assessment following completion of the program. Any failure to execute such a release or any premature revocation of such a release shall constitute a violation of this Order.
 - b. In order to successfully complete the program, Respondent’s participation in the program must be rated as successful, without condition or qualification. The Board in its discretion may impose further remedial coursework if the Respondent receives a conditional pass or negative assessment.

c. Respondent shall provide proof of timely and successful completion of the program to the: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, Second Floor, Nashville, Tennessee 37243** within thirty (30) days of completion.

d. Any CME course hours earned pursuant to this paragraph shall be in addition to the CME hours required to maintain licensure.

2. Have a practice monitor in place through Affiliated Monitors, Inc. of

Boston, Massachusetts, or another practice monitoring program preapproved by the

Board's medical consultant prior to petitioning for an Order of Compliance to have the

suspension lifted. The monitoring agreement shall require the following:

a. The monitoring shall continue for a period of at least one (1) year and until a minimum of four (4) quarterly reports have been submitted by the practice monitor. The practice monitoring shall continue until the Board's medical consultant determines, based on the information available, that Respondent is able to practice medicine safely without supervision or oversight.

b. Respondent shall not have less than ten (10) of his patients' records, for patients seen within the prior three (3) months, reviewed by the practice monitor quarterly. The practice monitor shall randomly determine from a list provided by Respondent of all patients treated within the previous three (3) months, which records to review and may at his or her discretion review more than ten (10) of the Respondent's records. The practice monitor shall preferably select records of patients who were seen three (3) or more times by Respondent during the prior three (3) months.

c. Respondent shall bear any and all cost associated with the practice monitor.

27. Upon successful completion of conditions above, Respondent may petition the Board for an Order of Compliance to have the suspension lifted and have his license placed on **PROBATION** for a period of at least five (5) years. As part of his petition for an Order of Compliance, Respondent must appear personally before the Board. During the period of probation, Respondent shall:

1. Comply with all recommendations of the practice monitor.

2. Cause the practice monitor to issue a report of their review to the Board's medical consultant, at Tennessee Board of Medical Examiners, 665 Mainstream Drive,

Nashville, Tennessee 37243, every three months with the first report due no later than one hundred twenty (120) days after Respondent's license has been placed on probation, detailing the findings of the practice monitor in regards to the:

- a. Respondent's prescribing practices;
- b. Respondent's medical record keeping;
- c. Respondent's compliance with the practice monitor's recommendations; and,
- d. Any other observations that the practice monitor deems relevant

3. Not serve as a supervising physician or a substitute supervising physician

4. Maintain good and lawful conduct.

28. Respondent shall pay six (6) Type B civil penalties in the amount of five hundred (\$500.00) dollars each for a total of three thousand (\$3,000.00) dollars, representing each month that Respondent was employed with Choice MD where his practice of medicine as outlined in the Stipulations of Fact, *supra*, was in violation of the statutes and rules enumerated in the Grounds for Discipline, *supra*.


29. Any and all civil penalties shall be paid within one (1) year of the effective date of this Agreed Order. Any and all civil penalty payments shall be paid by **certified check, cashier's check, or money order**, payable to the State of Tennessee which shall be mailed or delivered to the disciplinary coordinator at the address listed above. A notation shall be placed on said check that it is payable for the civil penalty of **Carl Lindblad, M.D., Complaint No. 2016037591**.

30. Respondent shall pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-02-.12(1)(j) of the *Official Compilation Rules and Regulations of the State of Tennessee*, the actual and reasonable costs of prosecuting this case to the extent allowed by law,

including all costs assessed by the Office of Investigations, Secretary of State, Administrative Procedures Division as well as the Office of General Counsel. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be three thousand dollars (\$3,000.00). Any and all costs shall be paid in full within sixty (60) days from the issuance of the Assessment of Costs by submitting a certified check, cashier's check, or money order payable to the State of Tennessee, which shall be mailed or delivered to the disciplinary coordinator at the address listed above. A notation shall be placed on said check that it is payable for the costs of Carl Lindblad, M.D., Complaint No. 2016037591.


31. At the expiration of the probationary period, Respondent becomes eligible to petition the Tennessee Board of Medical Examiners for an Order of Compliance lifting the restrictions imposed by this Agreed Order. In order to have his probation lifted, Respondent must show that he is compliant with both the terms of this Order and the September 2016 Order, which had already placed his license on probation. As part of his petition for an Order of Compliance, Respondent shall appear personally before the Tennessee Board of Medical Examiners unless his appearance is waived by the Board's medical consultant.
32. Respondent understands that this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B.) and/or similar agency.

This **AGREED ORDER** was approved by a majority of a quorum of the Tennessee Board of Medical Examiners at a public meeting of the Board and signed this 30th day of July, 2019.



President
Tennessee Board of Medical Examiners


APPROVED FOR ENTRY:



Carl Lindblad, M.D.
Respondent

7/29/19

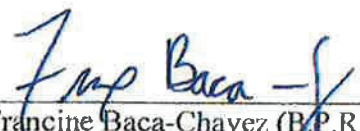
DATE



Steven G. Moore (B.P.R. # 014701)
Moore & Associates, P.C.
3001 South Broad Street, Suite 101
Chattanooga, Tennessee 37408

7/29/19

DATE



Francine Baca-Chavez (B.P.R. # 031864)
Deputy General Counsel
Office of General Counsel
Tennessee Department of Health
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

7/31/19

DATE

CERTIFICATE OF FILING

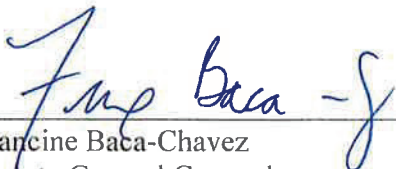
This Order was received for filing in the Office of the Secretary of State, Administrative
Procedures Division, and became effective on the ____ day of August, 2019.

Richard Collier, Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this Agreed Order has been served upon Respondent, Carl Lindblad, through his attorney Steven G. Moore, Moore & Associates, P.C. 3001 South Broad Street, Suite 101, Chattanooga, Tennessee 37408 by delivering same in the United States Mail, Certified Number' 7016 0600 0000 6508 9259, return receipt requested, and United States First Class Mail, with sufficient postage thereon to reach its destination.

This 2nd day of August, 2019.


Francine Baca-Chavez
Deputy General Counsel